

SETTLEMENT AGREEMENT

This settlement agreement ("Settlement Agreement") is entered into between Plaintiff Delores M. Stapp and Defendants, the United States Department of the Interior and the Bureau of Land Management. Plaintiff and Defendants ("the Parties") desire to reach full and final settlement of all issues regarding Plaintiff's complaint, which was filed in the case styled Stapp v. U.S. Dept. Of the Interior, et al., No. ED CV 02-1107 SGL (C.D. CA). The Parties have therefore negotiated this Settlement Agreement.

I. RECITALS

A. On October 16, 2002, Plaintiff, a holder of a mining claim under the 1872 Mining Law, filed a *pro se* challenge to the surface management rules (commonly referred to as the "3809 rules" because of the 43 CFR subpart in which they appear) of the Bureau of Land Management (BLM) published on October 30, 2001 and November 21, 2000. BLM's 3809 rules govern surface management of hardrock mining operations on public lands for minerals such as gold, silver, copper, lead, zinc, and uranium.

B. Plaintiff asserts that the BLM definition of "unnecessary or undue degradation" adopted in 2000 (but repealed in 2001) and various other provisions of the rules are burdensome and were promulgated illegally.

C. On February 6, 2003, Defendants filed an answer and on August 12, 2003, provided Plaintiff with the Administrative Record.

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D. On March 23, 2005, the Court approved the substitution of David Young, Esq. as counsel representing Plaintiff.

E. The Parties have been conducting settlement discussions with the assistance of Magistrate Judge Stephen G. Larson.

F. Plaintiff asserts that the activities she intends to conduct on her mining claim on public lands will cause no greater than negligible disturbance (even when added to any cumulative disturbance caused by other operators in the same proximity), and would qualify as casual use under 43 CFR section 3809.5 irrespective of the length of her occupancy on her mining claim.

G. Defendants contend that an occupancy for a period greater than 14 days in a 90-day period does not constitute casual use under the definition set forth in 43 CFR section 3809.5 irrespective of whether the surface disturbance is negligible.

H. Plaintiff asserts that in order to work her claim she will have to occupy her claim for a period greater than 14 days in a 90-day period, and even if not casual use that such occupancy will be allowed pursuant to 43 CFR Sections 3809.311 and 3809.312 upon the filing by Plaintiff of a notice setting forth the nature and extent of the occupancy. Plaintiff asserts further that the estimated cost for reclamation on her mining claim will not exceed \$500.

I. Without performing an analysis of Plaintiff's mining claims, Defendants generally are without sufficient information or belief as to the correctness of Plaintiff's factual assertions set forth in Recitals F, H and J. Defendants assert, however, that Plaintiff's mining claim, Lorimar 2, No. CAMC277516, located in the El Paso Mountains in Kern County, California, is located upon lands classified under the California Desert Conservation Area Plan

of 1980, as amended, as Multiple Use Class L (limited use). Defendants contend that any operation causing surface disturbance greater than casual use on the Lorimar 2 claim requires, under 43 CFR 3809.11(c)(1), approval of a plan of operations filed under 43 CFR 3809.401.

J. Plaintiff contends that no operations that will be conducted on the Lorimar 2 claim will cause surface disturbance greater than casual use and therefore, will not require a plan of operations.

II. TERMS

The Parties have negotiated this Settlement Agreement, and, in consideration of the mutual promises and undertakings set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following terms:

A. Settlement:

1. Under 43 CFR 3809, casual use includes activities reasonably incident to mineral exploration, mining, or mineral processing, ordinarily resulting in not greater than negligible disturbance of the public lands or resources. The use of the word "no" in the regulatory definition of "casual use" is illustrative only, and the regulatory maximum for casual use is "negligible" disturbance, not "no" disturbance.

Generally, casual use:

- a. Includes the collection of geochemical, rock, soil, or mineral specimens using hand tools; hand panning; or non-motorized sluicing, use of metal detectors, gold spears and other battery-operated devices for sensing the presence of minerals, and hand and battery-operated dry washers;

- b. May include use of small portable suction dredges, motorized dry washers not greater than 10 HP, and motorized recirculating units not greater than 10 HP, provided the activity results in no greater than negligible disturbance;
 - c. May include occupancies limited to 14 days or less in a 90-day period;
 - d. Excludes the use of mechanized earth-moving equipment, truck-mounted drilling equipment, chemicals, explosives, or the use of motorized vehicles in areas when designated as closed to "off-road vehicles." BLM, in any new road closure proceeding in the California Desert District that begins after the date of this settlement, will, in good faith and to the extent practicable, notify mining claimants of record who use the road being considered for closure for access to their mining claims, and will consider mineral resources in its decision whether to close the road.
2. For a mining or exploration operation involving an occupancy by the Plaintiff with no greater than negligible surface disturbance that, as Defendants assert, does not qualify as casual use solely because of an occupancy of greater than 14 days in a 90-day period, the individual financial assurance required under 43 C.F.R. 3809.552 will be the minimum estimated cost necessary to perform reclamation under the reclamation plan resulting from the occupancy, if BLM were to hire a contractor to perform such work, including the removal and disposition of any property left on the mine site. If such estimated cost resulting from such an occupancy by the Plaintiff are minimal, BLM will require only a

nominal financial assurance from the Plaintiff, as long as the amount is sufficient to cover the estimated reclamation cost. In establishing the amount of an individual financial assurance under the afore-mentioned circumstances, BLM will carefully and in good faith consider the reclamation cost estimate an operator, including Plaintiff, submits to BLM. In addition to surety bonds, under 43 CFR 3809.555, acceptable financial assurance instruments include cash, certificates of deposit, savings accounts, irrevocable letters of credit, insurance and various forms of negotiable securities. When an operator requests that BLM release its financial assurance under 43 C.F.R. 3809.590 following completion of reclamation and closure activities, BLM will process the request under the procedures of 43 C.F.R. 3809.590 through 3809.594 as expeditiously as practicable.

3. BLM will direct its California employees who review notices under 43 CFR 3809 to complete in as timely a manner as possible their review and other actions necessary to process a notice that may be submitted by Plaintiff reflecting an operation involving an occupancy that would result in no greater than negligible disturbance.
4. Under 43 CFR § 3809.333, persons conducting notice-level operations, including operations involving occupancies of greater than 14 days in a 90-day period, may extend their notice for two years under the same terms and conditions of the original notice by notifying BLM in writing on or before the expiration of the notice and by satisfying applicable financial guarantee requirements. Such an

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extension is automatically effective without additional BLM action; however, BLM may require an operator to modify its notice to prevent unnecessary or undue degradation of the public lands or to submit a plan of operations if the operation is covered by one of the circumstances set forth in 43 CFR 3809.11.

5. BLM will inform its offices in the State of California with jurisdiction over Plaintiff's mining claims of the terms of this settlement. Plaintiff will receive a copy of the notification sent to BLM offices informing them of the terms of this Settlement, together with a list of the BLM offices to whom the notification was sent. The BLM notification may be sent electronically or by facsimile transmission.

B. No Precedent: It is specifically understood and agreed that this Settlement Agreement is executed for the sole purpose of settling this litigation. Nothing in this Settlement Agreement shall be utilized for the purpose of precedent or argument in any other case. This Settlement Agreement shall not bind any Party as to any claim or issue except those specifically addressed herein, and this Settlement Agreement shall not be construed as addressing BLM's interpretation or implementation of any regulation except those specifically addressed herein. Likewise, nothing in this Settlement Agreement, and no actions taken by any Party hereto with regard to this Settlement Agreement, shall be construed as an admission by any Party of liability as to any of the matters settled. Moreover, no action taken by any Party in implementing this Settlement Agreement may be used as an admission of liability in any respect in any future or pending demand, administrative proceeding, or litigation or similar action involving any of the Parties.

C. Anti-Deficiency Act: Nothing in this Settlement Agreement shall be interpreted as, or shall constitute, a commitment or requirement that Defendants obligate or pay funds, or take any other action in contravention of the Anti-Deficiency Act, 31 U.S.C. §1341, or any other applicable appropriations law.

D. Integration: This Settlement Agreement is intended to be the total integration of the agreement of the parties with respect to the subject matter of this Settlement Agreement, and shall constitute a merger of all communications, notices, representations, denials, or written or verbal agreements between the Parties which have preceded the date of this Settlement Agreement. This Settlement Agreement is the entire agreement between the Parties concerning settlement of this litigation, and there are no oral agreements or representations concerning the subject matter of this Settlement Agreement which are not expressly set forth. No supplement, modification, or amendment of this Settlement Agreement shall be binding unless executed in writing by all of the Parties. No waiver of any of the provisions of this Settlement Agreement shall be deemed to constitute, or shall constitute, a waiver of any other provision, whether or not similar. No waiver shall be binding unless executed in writing by the Party making the waiver.

E. Counterparts: This Settlement Agreement may be executed in two or more counterparts. It shall not be necessary that the signatures of all Parties hereto be contained on any one counterpart and each counterpart shall constitute one and the same agreement. Signatures obtained via facsimile shall be deemed valid as if they were inked originals. Four originals of this Settlement Agreement will be created.

F. Effective Date: The Settlement Agreement will be effective when all four originals have been signed and dated by the persons listed on the signature block.

G. Authority: The Parties represent that the persons executing the Settlement Agreement on each Party's behalf have been duly authorized by all necessary and appropriate action to enter into this Settlement Agreement.

H. Construction: Each Party acknowledges that it was represented by counsel in connection with the negotiation and execution of this Settlement Agreement, is fully competent to execute this Settlement Agreement, and understands the terms and provisions of this Settlement Agreement. This Settlement Agreement shall be liberally construed as effecting a full and final settlement of the matters and controversies described herein.

I. Dismissal and Enforcement: Upon signature, the parties agree that this action will be dismissed with prejudice. Such dismissal shall be binding only on the parties to this settlement agreement and shall not be binding as to any other persons. No such dismissal shall prevent Plaintiff from asserting any of the claims or causes of action set forth in this action as a defense to any action brought by Defendants applying 43 CFR subpart 3809 to Plaintiff. Nothing in this Settlement Agreement shall bar any Party from seeking judicial relief enforcing this Settlement

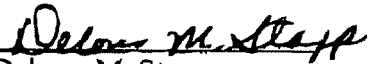
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Agreement. Such enforcement actions shall be brought in the United States District Court for the Central District of California, Riverside Division.

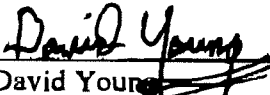
Each Party agrees to bear their own costs, expenses and attorneys fees.

The Parties have executed this Settlement Agreement as of the respective dates indicated below:

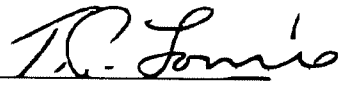
Plaintiffs


By:  Date: Feb 4, 2006
Delores M. Stapp
Plaintiff

Approved as to form by:

 Date: Feb. 10, 2006
David Young
Attorney for Plaintiff

Defendants

By:  Date: 2-17-06
Thomas P. Lonnie
Asst. Director for Minerals,
Realty & Resource Protection
Bureau of Land Management
Department of the Interior

 Date: 2-27-06
Ruth Ann Storey
Trial Attorney
United States Department of Justice
Environment & Natural Resources Division
Natural Resources Section

Attorney for Defendants